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Attorneys for Class Members and Named Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

EMMA ALLEN, HEATHER ANDERSON,)	
KRISTEN MARIE ANDERSON, JESSICA)	
BADER, ERIN BARKHOFF, KRISTIN)	No. CV 04-50-H-DWM
BASIAGA, ASHLEY COLBERT, ELISE COY,)	
HANA COY, DESTINY DAHLSEID,)	AMENDED CLASS ACTION
JOANNA DAHLSEID, AMANDA DEAN,)	COMPLAINT AND DEMAND
JESSIE DIAMOND, JENNIFER DICELLO,)	FOR JURY TRIAL
DANIELLE DREW, SARAH DREW,)	
HEATHER DUNKERSON, JAMIE EWAN,)	
TARA FAHLAND, AMY FIELDS, TESSA)	
FIELDS, MEGAN FIELDS, RAE A.)	
HAMILTON, KATIE HANCOCK,)	
CHRISTINE HASH, TIARA JANE HATTEN,)	
TESSA HATTEN, KARI ANNE HEIPLE,)	
DAYLIN HEWARD, RACHEL GILFILLAN,)	
CHELSEA GILFILLAN, KAYLA JOHNSON,)	
BRIANA KESSLER, ROSE M. LOPEZ,)	
JENNIFER E. LUEBKE, JOHANNA LUND,)	
<u>JODI MANN, CHELSEA MANNING,</u>)	

AMENDED CLASS ACTION COMPLAINT AND DEMAND
FOR JURY TRIAL - 1

VANESSA MEARS, DESTINIE MEYER,)
 KRYSTAL MICKELSON, BETSEY MILLER,)
 JENNIFER MODERIE, JALA MORSE,)
 ASHLEY MOSHER, ALANA PETERS, JENI)
 RAMONDELLI, BOBBI STARR)
 ROBERTSON, CIANA M. ROEBER, DONNA)
 ANN RAMONES, KIRA SAARI, AMANDA)
 SCHNEIDER, LORENE SEDERDAHL,)
 NATALIE JEAN SLINGSBY, AIMEE)
 STAGNOLI, JULIE STEIGER, ELIZABETH)
 STEPHENSON, SARA E. SULLIVAN,)
 CARRIE TISHMACK, TERESA NICOLE)
 TREVINO, ASHLEY TRULOCK, REBECCA)
 WERNER, MOLLY WILSON, BETH)
 COPENHAVER ZANDER, DEBORA A.)
 ALLEN, HARRY ALLEN, EDNA M.)
 AFLAGUE, DENYSE ANDERSON, JERRY)
 ANDERSON, KEITH ANDERSON, JANETTE)
 ANDERSON, DARELL W. BACHE, SUE)
 BACHE, SANDRA BADER, NORRIS & NINA)
 BARNHILL, individually and as representatives)
 of Frances Ann Emma Barnhill, PATTI)
 BARTLESS & MICHAEL DUNLAP,)
 individually and as representatives of Michaela)
 Dunlap, DEBBIE BASIAGA, RAYMOND)
 BENEITONE, LANANN BRYANT,)
 individually and as representative of Cheridan)
 Bryant, LINDA R. CARLSON, DEBORAH A.)
 COLBERT, MICHELLE COLE, DEDI COY,)
 JANEICE M. DAHLSEID, STEPHANIE)
 DEAN, JONI DIAMOND, ROBIN DIAMOND,)
 DARLA DICELLO, RAY DICELLO, KERRY)
 DREW, LORI DREW, STEVE DUNKERSON,)
 THERESA DUNKERSON, DOROTHY)
 EISENMAN, MARY FIELDS, BRENDA)
 FISHER, PATRECIA A. & PHILIP A.)
 FISHER, individually and as representatives of)
 Patrecia N. Shinn, VICKIE & ROBERT)
 FUGLE, individually and as representatives of)
 Kirby Marie Fugle, CAROL M. GASWINT,)
 individually and as representative of Tara Leigh)
 Gaswint, LYNN GILFILLAN, ALAN)
 GILFILLAN, LYNDELL S. HALE,)
 individually and as representative of Bridget)
 Hale, SUSAN HANCOCK, LYNN A. HASH,)

AMENDED CLASS ACTION COMPLAINT AND DEMAND
 FOR JURY TRIAL - 2

KIRK R. HASH., SR., TONI ANN HATTEN,)
JEFFREY J. HATTEN, LAURA HEIPLE,)
LINDA HEWARD, JERYL D. HOLBROOK,)
STEVE JOHNSON, SHANNON KESSLER,)
BRENDA KUROSKI, individually and as)
representative of Samantha Kuroski, COLLEEN)
LEEPER, DOROTHY LOPEZ, DAVID)
LOPEZ, KIM R. LUEBKE, KURT LUEBKE,)
SHERILEE LUND, LORA & RONALD MAKI,))
individually and as representatives of Melanie)
Maki, CARL MANN, JONI A. GILBERT,)
JEANINE MARCHANT, individually and as)
representative of Kristin McClure, SANDRA J.)
& FRED MCDONALD, individually and as)
representatives of Lauren McDonald, JULIE)
MEYER, DEVIN MEYER, DAWN L.)
MODERIE, KATHLEEN MORSE, BARBARA)
MOSHER, JOHN MOSHER, GINA R. NEAL,)
SHIRLEY PETERS, LINDA RAMONDELLI,)
RICHARD RAMONDELLI, JAMES)
ROBERTSON, SUSIE ROBERTSON, CAROL)
ROEBER, JOE ROEBER, TAWNIE ROSS,)
individually and as representative of Nicole)
Ross, STEVEN P. SAARI, individually and as)
representative of Sarah Saari, KATHY)
SCHULTE, RANDY A. SCHWEHR,)
individually and as representative of Annastacia)
Schwehr, JEFF SOLE, individually and as)
representative of Casandra Sole, GERALD L.)
SLINGSBY, CATHERINE SLINGSBY,)
LAURIE L. STAGNOLI, ROBERT)
STAGNOLI, TERRY STEIGER, TAMI)
STEIGER, CONNIE R. & DANIEL)
STEPHENS, individually and as representatives)
of Nicole Stephens, RON STEPHENSON, DAN)
E. SULLIVAN, SUSAN TRULOCK, KRISTIE)
& WILLIAM VAUTHIER, individually and as)
representatives of Amanda Vauthier,)
ALEXANDRA VOLKERTS & RUSS)
FLETCHER, individually and as representatives)
of Chelsea Volkerts, MIKE & BONNIE J.)
WALLACE, individually and as representatives)
of Jennifer Wallace, REBECCA & KEVIN)
WALTH, individually and as representatives of)
Natasha Lee Walth, LAURA WERNER,)

AMENDED CLASS ACTION COMPLAINT AND DEMAND
FOR JURY TRIAL - 3

JAMES WERNER, JOSEPH WILSON,)
LAURIE WILSON, DAVID YUHAS,)
individually and as representative of Katelin)
Yuhas and Megan Yuhas.)

On behalf of themselves and all others similarly)
situated,)

Plaintiffs,)

v.)

POWELL COUNTY SCHOOL DISTRICT,)
JOSEPH BROTT, RICK DUNCAN, DONALD)
MCDERMITT, PAT BANNON, and ESTATE)
OF RON FUHRMAN,)

Defendants.)

NOW COME Plaintiffs as victims (“Student Plaintiffs”) or parents and guardians of victims (“Parent Plaintiffs”) suing on their own behalf and as representatives of their minor children, (collectively “Named Plaintiffs”), and on behalf of all others similarly situated, and for their complaint in this matter allege as follows:

I. PARTIES

A. Plaintiffs

1. **Student Plaintiffs.** The Student Plaintiffs are members of and represent a class, including possible subclasses, consisting of more than 739 female students whose privacy was violated when they were viewed and/or videotaped while using the locker rooms at Powell County High School between 2000 and November 2002. The Named Plaintiff students attended Anaconda High School, Butte Central High School, Darby High

School, Drummond High School, Eureka High School, Frenchtown High School, Florence Carlton High School, Granite High School, Loyola Sacred Heart High School, Mission High School, Phillipsburg High School, Plains High School, Powell County High School (“PCHS”), St. Ignatius High School, Seeley Lake High School, Seeley Swan High School, Thompson Falls High School, Troy High School, and Victor High School. Class member students additionally attended Alberton High School, Arlee High School, Manhattan Christian High School, Shields Valley High School, St. Regis High School, Twin Bridges High School, Valley Christian High School, and White Sulphur Springs High School. Those Student Plaintiffs who are minors as of the date this action was commenced are represented by their parents or legal guardians, who, are suing on behalf of the student plaintiffs and/or in their individual capacities. (The minor student plaintiffs are addressed in the section dealing with Parent Plaintiffs.) All Student Plaintiffs are citizens of the United States of America. Student Plaintiffs include residents of several different states.

1.1 Emma Allen. Emma Allen attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Emma Allen is a resident of Gold Creek, Montana.

1.2 Heather Anderson. Heather Anderson attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Heather Anderson is a resident of Anaconda, Montana.

1.3 Kristen Marie Anderson. Kristen Marie Anderson attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Kristen Marie Anderson is a resident of Anaconda, Montana.

1.4 Jessica Bader. Jessica Bader attended Victor High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Jessica Bader is a resident of Coeur D’Alene, Idaho.

1.5 Erin Barkhoff. Erin Barkhoff attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Erin Barkhoff is a resident of Deer Lodge, Montana.

1.6 Kristin Basiaga. Kristin Basiaga attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Kristin Basiaga is a resident of Anaconda, Montana.

1.7 Ashley Colbert. Ashley Colbert attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Ashley Colbert is a resident of Anaconda, Montana.

1.8 Elise Coy. Elise Coy attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.9 Hana Coy. Hana Coy attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.10 Destiny Dahlseid. Destiny Dahlseid attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Destiny Dahlseid is a resident of Missoula, Montana.

1.11 Joanna Dahlseid. Joanna Dahlseid attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Joanna Dahlseid is a resident of Missoula, Montana.

1.12 Amanda Dean. Amanda Dean attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Amanda Dean is a resident of Florence, Montana.

1.13 Jessie Diamond. Jessie Diamond attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Jessie Diamond is a resident of Seeley Lake, Montana.

1.14 Jennifer Dicello. Jennifer Dicello attended Plains High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Jennifer Dicello is a resident of Plains, Montana.

1.15 Danielle Drew. Danielle Drew attended Seeley Lake High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Danielle Drew is a resident of Seeley Lake, Montana.

1.16 Sarah Drew. Sarah Drew attended Seeley Lake High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Sarah Drew is a resident of Seeley Lake, Montana.

1.17 Heather Dunkerson. Heather Dunkerson attended Philipsburg High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Heather Dunkerson is a resident of Philipsburg, Montana.

1.18 Jamie Ewan. Jamie Ewan attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Heather Anderson is a resident of Missoula, Montana.

1.19 Tara Fahland. Tara Fahland attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Tara Fahland is a resident of Dillon, Montana.

1.20 Amy Fields. Amy Fields attended Loyola Sacred Heart High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.21 Tessa Fields. Tessa Fields attended Loyola Sacred Heart High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.22 Megan Fields. Megan Fields attended Loyola Sacred Heart High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.23 Rae A. Hamilton. Rae A. Hamilton attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Rae A. Hamilton is a resident of Anaconda, Montana.

1.24 Katie Hancock. Katie Hancock attended Granite High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Katie Hancock is a resident of Philipsburg, Montana.

1.25 Christine Hash. Christine Hash attended Drummond High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Christine Hash is a resident of Drummond, Montana.

1.26 Tiara Jane Hatten. Tiara Jane Hatten attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Tiara Jane Hatten is a resident of Lincoln, Nebraska.

1.27 Tessa Hatten. Tessa Hatten attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Tessa Hatten is a resident of Seeley Lake, Montana.

1.28 Kari Anne Heiple. Kari Anne Heiple attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Kari Anne Heiple is a resident of Helena, Montana.

1.29 Daylin Heward. Daylin Heward attended Plains High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Daylin Heward is a resident of Plains, Montana.

1.30 Rachel Gilfillan. Rachel Gilfillan attended Loyola Sacred Heart High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Rachel Gilfillan is a resident of Missoula, Montana.

1.31 Chelsea Gilfillan. Chelsea Gilfillan attended Loyola Sacred Heart High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Chelsea Gilfillan is a resident of Missoula, Montana.

1.32 Kayla Johnson. Kayla Johnson attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.33 Briana Kessler. Briana Kessler attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Briana Kessler is a resident of Condon, Montana.

1.34 Rose M. Lopez. Rose M. Lopez attended Plains High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Rose M. Lopez is a resident of Plains, Montana.

1.35 Jennifer E. Luebke. Jennifer M. Luebke attended Frenchtown High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Jennifer E. Luebke is a resident of Missoula Montana.

1.36 Johanna Lund. Johanna Lund attended Drumond High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Johanna Lund is a resident of Hall, Montana.

1.37 Jodi Mann. Jodi Mann attended Loyola Sacred Heart High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Jodi Mann is a resident of Missoula, Montana.

1.38 Chelsea Manning. Chelsea Manning attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Chelsea Manning is a resident of Peoria, Arizona.

1.39 Vanessa Mears. Vanessa Mears attended Darby High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Vanessa Mears is a resident of Bozeman, Montana.

1.40 Destinie Meyer. Destinie Meyer attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Destinie Meyer is a resident of Troy, Montana.

1.41 Krystal Mickelson. Krystal Mickelson attended Philipsburg High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Krystal Mickelson is a resident of Missoula, Montana.

1.42 Betsey Miller. Betsey Miller attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.43 Jennifer Moderie. Jennifer Moderie attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Jennifer Moderie is a resident of Seeley Lake, Montana.

1.44 Jala Morse. Jala Morse attended Frenchtown High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.45 Ashley Mosher. Ashley Mosher attended Thompson Falls High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Ashley Mosher is a resident of Thompson Falls, Montana.

1.46 Alana Peters. Alana Peters attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Alana Peters is a resident of Forest Grove, Oregon.

1.47 Jeni Ramondelli. Jeni Ramondelli attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Jeni Ramondelli is a resident of Troy, Montana.

1.48 Donna Ann Ramones. Donna Ann Ramones attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Donna Ann Ramones is a resident of Seely Lake, Montana.

1.49 Bobbi Starr Robertson. Bobbi Starr Robertson attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Bobbi Starr Roberston is a resident of Anaconda, Montana.

1.50 Ciana M. Roeber. Ciana M. Roeber attended Butte Central High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Ciana M. Roeber is a resident of Butte, Montana.

1.51 Kira Saari. Kira Saari attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Kira Saari is a resident of Deer Lodge, Montana.

1.52 Amanda Schneider. Amanda Schneider attended Frenchtown High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Amanda Schneider is a resident of Missoula, Montana.

1.53 Lorene Sederdahl. Lorene Sederdahl attended Eureka High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.54 Natalie Jean Slingsby. Natalie Jean Slingsby attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Natalie Jean Slingsby is a resident of Florence, Montana.

1.55 Aimee Stagnoli. Aimee Stagnoli attended Butte Central High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Aimee Stagnoli is a resident of Butte, Montana.

1.56 Julie Steiger. Julie Steiger attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Julie Steiger is a resident of Troy, Montana.

1.57 Elizabeth Stephenson. Elizabeth Stephenson attended Philipsburg High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Elizabeth Stephenson is a resident of Philipsburg, Montana.

1.58 Sara E. Sullivan. Sara E. Sullivan attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Sara E. Sullivan is a resident of Ellensburg, Washington.

1.59 Carrie Tishmack. Carrie Tishmack attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Carrie Tishmack is a resident of Carlin, Nevada.

1.60 Teresa Nicole Trevino. Teresa Nicole Trevino attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Teresa Nicole Trevino is a resident of Seely Lake, Montana.

1.61 Ashley Trulock. Ashley Trulock attended Troy High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

1.62 Rebecca Werner. Rebecca Werner attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Rebecca Werner is a resident of Deer Lodge, Montana.

1.63 Molly Wilson. Molly Wilson attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Molly Wilson is a resident of Florence, Montana.

1.64 Beth Copenhaver Zander. Beth Copenhaver Zander attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Beth Copenhaver Zander is a resident of Bonner, Montana.

2. Parent Plaintiffs. The Parent Plaintiffs are members of and represent a class, including possible subclasses, consisting of parents or legal guardians of the Student Plaintiffs, who are suing on their own behalf for the damages they have suffered as a result of the videotaping and viewing of the Student Plaintiffs and also, where indicated, as representatives of their minor children for the damages suffered by their children. The

Parent Plaintiffs and their minor children are citizens of the United States of America. The Parent Plaintiffs and their minor children include residents of several states.

2.1 Debora A. Allen. Debora A. Allen is the mother of Emma Allen. Deborah A. Allen is a resident of Gold Creek, Montana.

2.2 Harry Allen. Harry Allen is the father of Emma Allen and is a resident of Gold Creek, Montana.

2.3 Edna M. Aflague. Edna M. Aflague is the mother Donna Ann Ramones and Teresa Nicole Trevino and is a resident of Seeley Lake, Montana.

2.4 Denyse Anderson. Denyse Anderson is the mother of Heather Anderson, and is a resident of Anaconda, Montana.

2.5 Jerry Anderson. Jerry Anderson is the father of Heather Anderson and is a resident of Anaconda, Montana.

2.6 Keith Anderson. Keith Anderson is the father of Kristen Anderson and is a resident of Anaconda, Montana.

2.7 Janette Anderson. Janette Anderson is the mother of Kristen Anderson and is a resident of Anaconda, Montana.

2.8 Darell W. Bache. Darell W. Bache is the father of Tara Fahland and is a resident of Valrico, Florida.

2.9 Sue Bache. Sue Bache is the mother of Tara Fahland and is a resident of Valrico, Florida.

2.10 Sandra Bader. Sandra Bader is the mother of Jessica Bader and is a resident of Stevensville, Montana.

2.11 Norris and Nina Barnhill. Norris Barnhill is the father of Frances Ann Emma Barnhill. Nina Barnhill is the mother of Frances Ann Emma Barnhill. They sue in their individual capacities and as representatives Frances Ann Emma Barnhill. Frances Ann Emma Barnhill attended Loyola Sacred Heart High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Norris and Nina Barnhill are residents of Missoula, Montana.

2.12 Patti Bartlett and Michael Dunlap. Patti Bartlett is the mother of Michaela Dunlap. Michael Dunlap is the father of Michaela Dunlap. They sue in their individual capacities and as representatives of Michaela Dunlap. Michaela Dunlap attended Seeley Swan High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Patti Bartlett and Michael Dunlap are residents of Seeley Lake, Montana.

2.13 Debbie Basiaga. Debbie Dasiaga is the mother of Kristin Basiaga and a resident of Anaconda, Montana.

2.14 Raymond Beneitone. Raymond Beneitone is the father of Kolbi Beneitone.

2.15 LanAnn Bryant. LanAnn Bryant is the mother of Cheridan Bryant and a resident of Missoula, Montana. She sues in her individual capacity and as representative of Cheridan Bryant. Cheridan Bryant attended Frenchtown High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.16 Linda R. Carlson. Linda R. Carlson is the mother of Jamie Ewan and is a resident of Missoula, Montana.

2.17 Deborah A. Colbert. Deborah A. Colbert is the mother of Ashley Colbert and is a resident of Anaconda, Montana.

2.18 Michelle Cole. Michelle Cole is the mother Kolbi Beneitone and she sues in her individual capacity and as representative for Kolbi Beneitone. Kolbi Beneitone attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Michelle Cole is a resident of Florence, Montana.

2.19 Dedi Coy. Dedi Coy is the mother of Hana Coy and Elise Coy and is a resident of Troy, Montana.

2.20 Janeice M. Dahlseid. Janeice Dahlseid is the mother of Destiny Dahlseid and Joanna Dahlseid and is a resident of Florence, Montana.

2.21 Stephanie Dean. Stephanie Dean is the mother of Amanda Dean and is a resident of Florence, Montana.

2.22 Joni Diamond. Joni Diamond is the mother of Jessie Diamond and a resident of Seeley Lake, Montana.

2.23 Robin Diamond. Robin Diamond is the father of Jessie Diamond and a resident of Seeley Lake, Montana.

2.24 Darla Dicello. Darla Dicello is the mother of Jennifer Dicello and a resident of Plains, Montana.

2.25 Ray Dicello. Ray Dicello is the father of Jennifer Dicello and a resident of Plains, Montana.

2.26 Kerry Drew. Kerry Drew is the father of Danielle Drew and Sarah Drew and a resident of Seeley Lake, Montana.

2.27 Lori Drew. Lori Drew is the mother of Danielle Drew and Sarah Drew and a resident of Seeley Lake, Montana.

2.28 Steve Dunkerson. Steve Dunkerson is the father of Heather Dunkerson and is a resident of Philipsburg, Montana.

2.29 Theresa Dunkerson. Theresa Dunkerson is the mother of Heather Dunkerson and is a resident of Philipsburg, Montana.

2.30 Dorothy Eisenman. Dorothy Eisenman is the mother of Lorene Sederdahl and a resident of Eureka, Montana.

2.31 Mary Fields. Mary Fields is the mother of Amy Fields, Tessa Fields and Megan Fields and is a resident of Missoula, Montana.

2.32 Brenda Fisher. Brenda Fisher is the mother of Amanda Schneider and is a resident of Missoula, Montana.

2.33 Patrecia A. and Philip A. Fisher. Patrecia A. Fisher is the grandmother and legal guardian of Patrecia N. Shinn. Philip A. Fisher is the grandfather and legal guardian of Patrecia N. Shinn. They sue in their individual capacities and as representative for Patrecia N. Shinn. Patrecia N. Shinn attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Patrecia A. and Philip A. Fisher are residents of Florence, Montana.

2.34 Vickie and Robert Fugle. Vickie Fugle is the mother of Kirby Marie Fugle. Robert Fugle is the father of Kirby Marie Fugle. They sue in their individual capacities and as representatives for Kirby Marie Fugle. Kirby Marie Fugle attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the

PCHS locker rooms during the relevant time period. Vickie and Robert Fugle are residents of Anaconda, Montana.

2.35 Carol M. Gaswint. Carol M. Gaswint is the mother of Tara Leigh Gaswint and a resident of Frenchtown, Montana. She sues in her individual capacity and as representative for Tara Leigh Gaswint. Tara Leigh Gaswint attended Frenchtown High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.36 Lynn Gilfillan. Lynn Gilfillan is the mother of Rachel Gilfillan and Chelsea Gilfillan and is a resident of Missoula, Montana.

2.37 Alan Gilfillan. Alan Gilfillan is the father of Rachel Gilfillan and Chelsea Gilfillan and is a resident of Missoula, Montana.

2.38 Lyndell S. Hale. Lyndell S. Hale is the father of Bridget Hale and a resident of Snohomish, Washington. He sues in his individual capacity and as representative for Bridget Hale. Bridget Hale attended Darby High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.39 Susan Hancock. Susan Hancock is the mother of Katie Hancock and a resident of Philipsburg, Montana.

2.40 Lynn A. Hash. Lynn A. Hash is the mother of Christine Hash and a resident of Drummond, Montana.

2.41 Kirk R. Hash. Sr. Kirk R. Hash, Sr., is the father of Christine Hash and a resident of Drummond, Montana.

2.42 Toni Ann Hatten. Toni Ann Hatten is the mother of Tessa and Tiara Hatten and a resident of Seeley Lake, Montana.

2.43 Jeffrey J. Hatten. Jeffrey J. Hatten is the father of Tessa and Tiara Hatten and a resident of Seeley Lake, Montana.

2.44 Laura Heiple. Laura Heiple is the mother of Kari Anne Heiple and is a resident of Helena, Montana.

2.45 Linda Heward. Linda Heward is the mother of Daylin Heward and a resident of Plains, Montana.

2.46 Jeryl D. Holbrook. Jeryl D. Holbrook is the father of Rae Ann Hamilton and a resident of Anaconda, Montana.

2.47 Steve Johnson. Steve Johnson is the father of Kayla Johnson and a resident of Seeley Lake, Montana.

2.48 Shannon Kessler. Shannon Kessler is the mother of Briana Kessler and a resident of Condon, Montana.

2.49 Brenda Kuroski. Brenda Kuroski is the mother of Samantha Kuroski and a resident of Florence, Montana. She sues in her individual capacity and as representative for Samantha Kuroski. Samantha Kuroski attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.50 Colleen Leeper. Colleen Leeper is a resident of Deer Lodge Montana and the mother of a Powell County High School student who participated in athletics at PCHS and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.51 Dorothy Lopez. Dorothy Lopez is the mother of Rose Lopez and a resident of Plains, Montana.

2.52 David Lopez. David Lopez is the father of Rose Lopez and a resident of Plains, Montana.

2.53 Kim R. Luebke. Kim R. Luebke is the mother of Jennifer Luebke and a resident of Missoula, Montana.

2.54 Kurt Luebke. Kurt Luebke is the father of Jennifer Luebke and a resident of Missoula, Montana.

2.55 Sherilee Lund. Sherilee Lund is the mother of Johanna Lund and is a resident of Hall, Montana.

2.56 Lora and Ronald Maki. Lora Maki is the mother of Melanie Maki. Ronald Maki is the father of Melanie Maki. They are residents of Anaconda, Montana. They sue in their individual capacities and as representatives for Melanie Maki. Melanie Maki attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.57 Carl Mann. Carl Mann is the father of Jodi Mann.

2.58 Joni A. Gilbert. Joni A. Gilbert is the mother of Chelsea Manning and is a resident of Troy, Montana.

2.59 Jeanine Marchant. Jeanine Marchant is the mother of Kristin McClure and a resident of St. Ignatius, Montana. She sues in her individual capacity and as representative for Kristin McClure. Kristin McClure attended Mission High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.60 Sandra J. and Fred McDonald. Sandra J. McDonald is the mother of Lauren McDonald. Fred McDonald is the father of Lauren McDonald. They sue in their individual capacities and as representative for Lauren McDonald. Lauren McDonald attended Granite High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period. Sandra J. and Fred McDonald are residents of Philipsburg, Montana.

2.61 Julie Meyer. Julie Meyer is the mother of Destinie Meyer and a resident of Troy, Montana.

2.62 Devin Meyer. Devin Meyer is the father of Destinie Meyer and a resident of Troy, Montana.

2.63 Dawn L. Moderie. Dawn L. Moderie is the mother of Jennifer Moderie and a resident of Seeley Lake, Montana.

2.64 Kathleen Morse. Kathleen Morse is the mother of Jala Morse and a resident of Frenchtown, Montana.

2.65 Barbara Mosher. Barbara Mosher is the mother of Ashley Mosher and a resident of Thompson Falls, Montana.

2.66 John Mosher. John Mosher is the father of Ashley Mosher and a resident of Thompson Falls, Montana.

2.67 Gina R. Neal. Gina R. Neal is the mother of Krystal Mickelson and a resident of Philipsburg, Montana.

2.68 Audrey O'Neil. Audrey O'Neil is the mother of Carrie Tishmack and a resident of Troy, Montana.

2.69 Shirley Peters. Shirley Peters is the mother of Alan Peters and a resident of Deer Lodge, Montana.

2.70 Linda Ramondelli. Linda Ramondelli is the mother of Jeni Ramondelli and a resident of Troy, Montana.

2.71 Richard Ramondelli. Richard Ramondelli is the father of Jeni Ramondelli and a resident of Troy, Montana.

2.72 James Robertson. James Robertson is the father of Bobbi Starr Robertson and a resident of Anaconda, Montana.

2.73 Susie Robertson. Susie Robertson is the mother of Bobbi Stan Robertson and a resident of Anaconda, Montana.

2.74 Carol Roeber. Carol Roeber is the mother of Ciana Roeber and a resident of Butte, Montana.

2.75 Joe Roeber. Joe Roeber is the father of Ciana Roeber and a resident of Butte, Montana.

2.76 Tawnie Ross. Tawnie Ross is the mother of Nicole Ross and a resident of Frenchtown, Montana. She sues in her individual capacity and as representative for Nicole Ross. Nicole Ross attended Frenchtown High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.77 Steven P. Saari. Steven P. Saari is the father of Sarah Saari and Kira Saari and a resident of Deer Lodge, Montana. He sues in his individual capacity and as representative for Sarah Saari. Sarah Saari attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.78 Kathy Schulte. Kathy Schulte is the mother of Jodi Mann and a resident of Missoula, Montana.

2.79 Randy A. Schwehr. Randy A. Schwehr is the father of Annastacia Schwehr and a resident of Darby, Montana. He sues in his individual capacity and as representative of Annastacia Schwehr. Annastacia Schwehr attended Darby High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.80 Jeff Sole. Jeff Sole is the father of Casandra Sole and a resident of Missoula, Montana. He sues in his individual capacity and as representative of Casandra Sole. Casandra Sole attended Frenchtown High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.81 Gerald L. Slingsby. Gerald L. Slingsby is the father of Natalie Jean Slingsby and is a resident of Florence, Montana.

2.82 Catherine Slingsby. Catherine Slingsby is the mother of Natalie Jean Slingsby and is a resident of Florence, Montana.

2.83 Laurie L. Stagnoli. Laurie L. Stagnoli is the mother of Aimee Stagnoli and a resident of Butte, Montana.

2.84 Robert Stagnoli. Robert Stagnoli is the father of Aimee Stagnoli and a resident of Butte, Montana.

2.85 Terry Steiger. Terry Steiger is the father of Julie Steiger and is a resident of Troy, Montana.

2.86 Tami Steiger. Tami Steiger is the mother of Julie Steiger and is a resident of Troy, Montana.

2.87 Connie R. and Daniel Stephens. Connie R. Stephens is the mother of Nicole Stephens. Daniel Stephens is the father of Nicole Stephens. They are residents of Florence, Montana. They sue in their individual capacities and as representatives of Nicole Stephens. Nicole Stephens attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.88 Ron Stephenson. Ron Stephenson is the father of Elizabeth Stephenson and a resident of Philipsburg, Montana.

2.89 Cynthia K. Sullivan. Cynthia K. Sullivan is the mother of Sara E. Sullivan and a resident of Florence, Montana.

2.90 Dan E. Sullivan. Dan E. Sullivan is the father of Sara E. Sullivan and a resident of Florence, Montana.

2.91 Susan Trulock. Susan Trulock is the mother of Ashley Trulock and a resident of Troy, Montana.

2.92 Kristie and William Vauthier. Kristie Vauthier is the mother of Amanda Vauthier. William Vauthier is the father of Amanda Vauthier. They are residents of Anaconda, Montana. They sue in their individual capacities and as representatives of Amanda Vauthier. Amanda Vauthier attended Anaconda High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.93 Alexandra Volkerts and Russ Fletcher. Alexandra Volkerts is the mother of Chelsea Volkerts. Russ Fletcher is the father of Chelsea Volkerts. They are residents of Missoula, Montana. They sue in their individual capacities and as representatives of Chelsea Volkerts. Chelsea Volkerts attended Loyola Sacred Heart High

School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.94 Mike and Bonnie J. Wallace. Mike Wallace is the father of Jennifer Wallace. Bonnie J. Wallace is the mother of Jennifer Wallace. They are residents of Florence, Montana. They sue in their individual capacities and as representatives of Jennifer Wallace. Jennifer Wallace attended Florence High School, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.95 Rebecca and Kevin Walth. Rebecca Walth is the mother of Natasha Lee Walth. Kevin Walth is the father of Natasha Lee Walth. They are residents of Elliston, Montana. They sue in their individual capacities and as representatives of Natasha Lee Walth. Natasha Lee Walth attended PCHS, participated in athletics, and was filmed and/or viewed in the PCHS locker rooms during the relevant time period.

2.96 Laura Werner. Laura Werner is the mother of Rebecca Werner and is a resident of Deer Lodge, Montana.

2.97 James Werner. James Werner is the father of Rebecca Werner and a resident of Deer Lodge, Montana.

2.98 Joseph Wilson. Joseph Wilson is the father of Molly Wilson and is a resident of Florence, Montana.

2.99 Laurie Wilson. Laurie Wilson is the mother of Molly Wilson and is a resident of Florence, Montana.

2.100 David Yuhas. David Yuhas is the father of Kateline and Megan Yuhas and a resident of Florence, Montana. He sues in his individual capacity and as

representative of Katelin Yuhas and Megan Yuhas. Katelin and Megan Yuhas attended Florence High School, participated in athletics, and were filmed and/or viewed in the PCHS locker rooms during the relevant time period.

B. Defendants

3. School District. Defendant Powell County School District (“PCSD”) is a governmental entity organized under the laws of the State of Montana responsible for providing public educational services at and overseeing the activities of Powell County High School (“PCHS”), a public high school. PCSD was, during the relevant time period, a recipient of federal funding.

4. Superintendent Brott. Defendant Joseph Brott was the Superintendent of the Powell County School District during school years 200-2001, 2001-2002, and 2002-2003, with the duties set forth in MCA 20-4-402. He is sued in his individual and official capacities.

5. Principal Duncan. Defendant Rick Duncan was the Principal of PCHS from 2001-2003. He is sued in his individual and official capacities.

6. Athletic Director McDermid. Defendant Donald McDermid has been the Athletic Director at Powell County High School since August 2001. He is sued in his individual and official capacities.

7. Yearbook Advisor Pat Bannon. Defendant Pat Bannon was the Advisor of the PCHS Yearbook from 1994 to the present. He is sued in his individual and official capacities.

8. Estate of Ron Fuhrman. Ron Fuhrman was the wrestling coach at PCHS from 1985 through April 2003. Ron Fuhrman died on April 29, 2004. Mr. Fuhrman is sued through his estate in both his individual as well as his official capacities.

II. JURISDICTION

9. Federal Question. The Court has subject-matter jurisdiction pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, and 28 U.S.C. § 1331.

10. Supplemental. This Court has supplemental jurisdiction over the state claims against the Defendants pursuant to 28 U.S.C. § 1367.

III. FACTUAL ALLEGATIONS

A. Installation and Operation of the Videotaping Equipment

11. Beginning in 2000 or earlier, two student employees at PCHS conceived and implemented a plan to install hidden video equipment in the locker rooms at the school in order to film the girls using the locker rooms as they dressed, undressed, and showered. The student employees were Ben Frankforter and Eddy Newman. Frankforter and Newman later recruited PCHS student Matthew Thomas to help in the scheme.

12. The two student employees, Frankforter and Newman, were hired by Defendant McDermid with the knowledge and acquiescence of Defendants Brott and Duncan.

13. The two student employees, Frankforter and Newman, were given unsupervised and unlimited access to all locker room areas of PCHS by Defendants McDermid and Fuhrman with the knowledge and acquiescence of Defendants Brott and Duncan.

14. Frankforter and Newman installed cameras in numerous locations in the locker rooms. Some cameras were installed inside of lockers. One of the lockers they brought in specifically for this purpose. It was of a different color and style than the other lockers in the locker room. They cut a hole in its back with an electric saw and installed a two-way mirror on the locker's back. They then placed it on its side on top of other lockers so that the mirror faced the area they wanted to film. This locker remained in the locker room over a two-year period. Other lockers were modified, with holes cut in them to allow for the entry of extension cords.

15. Student employee Frankforter and student Thomas manually operated a camera behind a two-way mirror installed over a hole in a wall in the girls' locker room. They did the videotaping from a cavity between the walls of the boys' and girls' locker rooms, called a pipe chase, which they accessed through the false ceiling shared by all of the locker rooms. They installed boards above the false ceilings so they could crawl between the locker rooms or lie above the ceilings between the rooms while setting up equipment.

16. The cameras were powered with orange extension cords plugged into outlets on visible white walls. The cords ran up the walls, into false ceilings, and into locked lockers.

17. Over the next two years, until November 2002, the two student employees and Thomas videotaped and/or viewed from the lockers and pipe chase more than 739 girls from all over Montana in various states of undress before, after, and during competitions held at PCHS.

18. Frankforter, Newman, and Thomas edited down the raw material tapes onto “master tapes” containing the most revealing material. They watched these master tapes repeatedly and showed them to friends. The boys watched the tapes at parties and while masturbating.

19. Upon information and belief, individuals who gained access to the tapes made efforts to sell the tapes to the public. It is unknown whether those efforts were successful.

20. On or about Friday, November 8, 2002, PCHS student Patti Anderson removed the two-way mirror on the girls’ locker room wall and found the hole bored in the concrete. Thomas was inside the wall videotaping when Anderson removed the mirror. Anderson removed the mirror in front of several witnesses. November 8, 2002 was the second day of a three-day volleyball tournament hosted at PCHS.

21. Upon information and belief, on or about Friday, November 8, 2002, PCSD employees were informed of Anderson’s removal and replacement of the two way mirror.

22. PCSD continued the tournament on Friday, November 8, 2002 and Saturday, November 9, 2002. During the tournament PCSD and the informed employees did not warn the athletes, their coaches or chaperones, or the athletes’ parents or guardians about the two-way mirror in the girls’ locker room.

23. Sunday of the following weekend, PCHS girls returned home from another volleyball tournament. The next day they learned that Thomas, Frankforter, and Newman had been suspended for videotaping in the locker rooms.

24. The Powell County Sheriff’s department automated case report logged a “walk in” complaint to the Sheriff on November 11, 2002 at 9:14 a.m. The case report

reflected the complaint as a felony burglary at PCHS. The complainants were listed as Brott and Mark Cease, the Head Custodian at PCHS. The case report showed that an officer had been dispatched to PCHS on Tuesday, November 12, 2002 at 5:00 a.m. and that the officer cleared the scene on Tuesday, November 12, 2002 at 7:45 a.m. The case report showed that Newman, Frankforter and Thomas were charged with felony burglary at 9:14 a.m. on Tuesday, November 12, 2002 and misdemeanor criminal mischief on Wednesday, November 13, 2002 at 10:15 a.m.

25. On November 11, 2002, a few days after Andersen had removed the two-way mirror, Head Custodian Mark Cease reported one of the orange extension cords hanging from the ceiling and plugged into a wall socket. He left work and went to notify the Powell County sheriff. Cease was later interviewed by the Powell County Sheriff. When interviewed by the Sheriff, Cease confirmed that he had reported the event to the Sheriff on November 11, 2002.

B. Defendants' Acts and Omissions

26. PCSD's and PCHS's policies or practices were the proximate cause of and the moving force behind the violations of Plaintiffs' constitutional and statutory rights.

26.1 Frankforter and Newman were employed by the school as "towel boys" during female athletic competitions. They were supervised by defendants Brott and McDermid, but received little or no training or supervision. Their positions as towel boys allowed them unsupervised access to the locker rooms before, during, and after female athletic competitions. Frankforter and Newman used this time to set up and change tapes and batteries for the cameras and later to assist Thomas in getting into the pipe chase to film the girls.

26.2 In addition, Frankforter was employed as the student aide of Arlita Fenner, a gym teacher whose office was located in the girls' main locker room. Fenner allowed Frankforter access to the locker rooms while the girls were in the gym. Frankforter used this time to set up and change tapes and batteries in the cameras.

26.3 As PCHS staff knew, the doors and windows to the gym and locker rooms either did not lock or were being left propped open.

26.4 Students, including Frankforter, Newman and Thomas, were being given keys to the gym and locker room areas or keys were being hidden for them by staff including but not limited to Defendants McDermid, Fuhrman and Brott.

27. The School District continued to invite other schools to its gym and locker rooms and to agree to host regional competitions even after its employees and Superintendent knew girls had been videotaped in the locker rooms. The defendants similarly allowed their own students to continue to use the locker rooms, and allowed Frankforter and Newman continued access to the rooms through their jobs, despite knowledge or notice of the videotaping.

C. Defendants' Knowledge of and Deliberate Indifference to the Videotaping Operation

28. Throughout the videotaping scheme, Defendants had either constructive or actual knowledge of it.

29. Defendants should have known of the videotaping operation from its inception due to the obvious visible evidence of it. This evidence included:

29.1 Orange extension cords running up the walls into the ceiling. These cords were visible to anyone who walked by, and there was no need for electrical power in

the areas where the cords were running. The cords were left up for several weeks to more than a month at a time from 2000 through November 2002.

29.2 An unusual locker placed on top of the regular lockers with extension cords running into it and a conspicuously placed two-way mirror on it. Head custodian Cease saw the students installing the locker in late 2001 and asked them what they were doing. He accepted their answer, that they had taken it home to work on it, without question, follow-up inquiry, or reporting.

29.3 Other lockers with extension cords running into them.

29.4 The two-way mirror conspicuously placed in the girls' locker room.

30. Defendants knew or should have known of the videotaping operation because the operation and the existence of the tapes themselves were well-known and talked about at PCHS. Examples of this include the following:

30.1 In late 2001, PCHS student Travis Crismore took one of the tapes from Newman's locker (the "Crismore tape"). He showed the tape to several of his friends, including Lucas Brott, son of Superintendent Brott.

30.2 In late 2001 or early 2002, PCHS student Eric Woodward showed several students one or more videotapes containing nude and semi-nude images of girls videotaped in the PCHS locker rooms. The video or videos were shown to students in the boys' locker room and while walking up and down the senior hall of the school during a passing period in view of several teachers. The videos were discussed within the hearing of several PCHS staff members.

30.3 In late 2001, PCHS student Patti Anderson was standing at her locker when several boys came up to her and said, "Nice video, ladies." She learned that

Crismore had taken a camera that contained one of the tapes from a locker. By this time, the tape was being shown around the school, and students were discussing the locker room tapes openly in the hallways, in classes, and in front of their teachers.

30.4 In the 2001-2002 PCHS yearbook, distributed in Spring 2002, PCHS student Eric Woodward is quoted as describing his “Idea of a Perfect 10” as “the locker room video” that he admits was a reference to the tape taken from Newman’s locker, and, if questioned at the time, would have admitted that fact. Another boy described the “Worst thing about Powell County High” as “cameras in the bathrooms.” Defendant Bannon and Defendant Brott both reviewed the yearbook carefully before its publication. Brott commented to PCHS staff that he had found only two typos in it.

31. In the summer of 2002, Cease, who had seen Frankforter and Newman installing the locker with the mirror in 2001, found a large extension cord hidden in a room in the locker hall with a television set and a VCR. Cease removed the extension cord but did not tell anyone about it.

32. Defendants had actual knowledge of the videotaping operation and the existence of the films themselves through a variety of sources, including the following:

32.1 PCHS Student Dan Rucker was employed by the School District as the assistant to Defendant McDermid, the Athletic Director at PCHS. In late 2001, Thomas and Frankforter asked Rucker if he wanted to participate in the videotaping operation. Although Rucker claims he declined to participate, Rucker watched the tapes as they were edited. His knowledge of the videotaping operation is imputed to PCSD.

32.2 Also in late 2001, Arlita Fenner learned that several students thought they were being videotaped when they used the locker rooms. In investigating the report,

Fenner was told by a student about the Crismore tape, which confirmed that the girls were right. Fenner reported this to Defendant Brott at the time, who said that he would take care of it. But Brott did nothing in response to Fenner's report.

32.3 Later in the 2001-2002 school year, the same student who had told Fenner about the Crismore tape found the two-way mirror in the girls' locker room and told Fenner about it. Fenner's knowledge is imputed to PCSD.

32.4 One of the students to whom Crismore showed the tape he had stolen was Lucas Brott, the son of Defendant Brott. In early 2002, Defendant Brott failed to attend a social gathering with staff at the Broken Arrow in Deer Lodge. His assistant clerk, Louise Thomas, told PCHS study hall monitor Nancy Pembleton that Defendant Brott was home because he was mad at his son for being caught watching the locker-room video.

32.5 Defendant Brott's younger son Isaak Brott testified that he had heard in the spring of 2002 of the existence of videotapes of nude and semi-nude girls taken in PCHS locker rooms.

32.6 Students in Defendant Fuhrman's drafting class discussed the videotape viewed by Lucas Brott and Crismore in Defendant Fuhrman's presence and hearing. Defendant Fuhrman took no action.

32.7 Students in other classes also discussed the videotapes and the videotaping operation in classes and at other school functions within the presence and hearing of teachers or staff members.

33. Defendants were aware of other routine acts of harassment of PCHS students against other PCHS students, some of it sexual, but their practice was to ignore it.

For instance, PCHS had a recurrent problem with hazing among students. Several students testified to a practice of hazing in the locker rooms, gymnasium, showers, and athletic team buses. Male students were given “golden showers” by senior class members-a practice whereby one student would urinate on another boy. Younger male students were also forced to eat and drink nauseating concoctions by their elder classmates. Younger female students were forced to perform “impossible sit ups” by elder female classmates-a practice that involved the blindfolding of the victim, forcible restraint of the girl by the shoulders, and then release of the victim so that her face would collide with the naked rear end of another girl poised above her.

34. Students who were hazed reported the experience as distressing, humiliating and traumatizing.

35. PCHS Staff was informed of the hazing and knew that it routinely occurred, but failed to take steps to end it.

D. Defendants’ Attempts to Conceal Evidence

36. Frankforter, Newman and Thomas were arrested in November 2002. Immediately afterward, Defendant Brott wrote a memo to all employees advising them they were not to speak with anyone, including law enforcement or any lawyers, about the events.

IV. CAUSES OF ACTION

A. Claims Under 42 U.S.C. § 1983

37. All previous allegations are included in this section as though fully set forth here.

38. All Named Plaintiffs, class members, and represented minor children of the Parent Plaintiffs are citizens of the United States of America.

39. All actions complained of were taken under color of law by Defendants.

40. The surreptitious viewing and videotaping of the Student Plaintiffs and minor children of the Parent Plaintiffs and class members violated the following rights as guaranteed to them by the United States Constitution:

40.1 The right to be secure in their persons;

40.2 The right of privacy;

40.3 The right to equal protection under the law.

41. The claim under § 1983 for violation of the plaintiffs' constitutional rights is made against the PCSD and against the individual defendants in both their official and their individual capacities.

42. The surreptitious viewing and videotaping of the Student Plaintiffs and minor children of the Parent Plaintiffs and class members also deprived them of their federally protected right, under Title IX (20 U.S.C. § 1681), to equal access to the educational opportunities and benefits provided by PCHS. This claim under § 1983 for violation of the plaintiffs' rights under Title IX is made against the PCSD and against the individual defendants in their individual capacities.

43. The Defendants demonstrated deliberate indifference to the constitutional rights of the Named Plaintiffs and class members by failing to take action even though they had been placed on notice prior to the beginning of the 2002-2003 school year.

44. The Defendants demonstrated deliberate indifference to the constitutional rights of the Named Plaintiffs and class members by continuing to invite them to the PCHS

locker rooms to be victimized even though they had been placed on notice prior to the beginning of the 2002-2003 school year.

45. Defendants' –policies, acts, and omissions proximately caused and were the moving force behind Plaintiffs' constitutional injuries.

46. The harm caused to the Student Plaintiffs, children of the Parent Plaintiffs, and class members was foreseeable and direct as a result of the actions of the Defendants.

47. The Defendants acted in willful disregard for the safety and constitutional rights of the Student Plaintiffs, children of the Parent Plaintiffs, and class members.

48. A relationship exists between the Defendants and all the Student Plaintiffs, children of the Parent Plaintiffs and class members.

48.1 The relationship between Defendants and the Student Plaintiffs, children of the Parent Plaintiffs, and class members who are students at PCHS exists due to the presence of those individuals as students in a public school.

48.2 The relationship between Defendants and the Student Plaintiffs, children of the Parent Plaintiffs, and class members who are not students at PCHS exists because Defendants PCSD, Brott, Duncan, and McDermid invited those students to come to PCHS and participate in sporting events using the locker rooms.

49. The Defendants used their authority as Yearbook Advisor, Athletic Director, Principal of PCHS, Superintendent of PCHS, and head wrestling coach at PCHS to create an opportunity that would not otherwise have existed for Newman, Frankforter, and Thomas to commit the crimes they committed and to continue their unlawful behavior.

50. Defendants Brott, Duncan, and McDermid authorized Frankforter to be an aide to the girls' gym teacher Arlita Fenner and, therefore, to have unsupervised access to the girls' locker room.

51. Defendants have instituted a course of action designed to cause the destruction of evidence of their wrongdoing and the wrongdoing of Newman, Frankforter, and Thomas. The destruction of evidence is a harm that is being directly caused by Defendants and is foreseeable in that some of the Student Plaintiffs, children of the Parent Plaintiffs, and class members will not be able to prove they were videotaped and the extent of their damages if the evidence is destroyed.

52. The Defendants are acting in the willful disregard of the due process rights of Named Plaintiffs and class members by attempting to have the evidence destroyed.

B. Claims Under Title IX (20 U.S.C. § 1681 et seq.)

53. All previous allegations are included in this section as though fully set forth here.

54. The surreptitious viewing and videotaping of the Student Plaintiffs and minor children of the Parent Plaintiffs and class members constituted sexual harassment.

55. The harassment was sufficiently severe, pervasive, and offensive to deprive the Student Plaintiffs and minor children of the Parent Plaintiffs and class members of equal access to the educational opportunities and benefits provided by PCHS, in violation of 20 U.S.C. § 1681(a).

56. Defendants had actual knowledge of the harassment and yet showed deliberate indifference to it.

57. This claim for violation of Title IX is against PCSD and against Defendants Duncan and Brott in their official capacities.

C. Negligence Claims Against PCSD

58. All previous allegations are included in this section as though fully set forth here.

59. PCSD had a duty of care toward the Student Plaintiffs, children of the Parent Plaintiffs, and class members.

60. PCSD had the duty to supervise Defendants Brott, Duncan, McDermid, Fuhrman, and Bannon and the other employees of PCSD.

61. PCSD had the duty to supervise students Frankforter and Newman while they were paid employees of PCSD as towel boys and while Frankforter was a teacher's aide.

62. PCSD had a duty to supervise its students, including Frankforter, Newman and Thomas, and its staff to prevent its students and staff from causing harm to Plaintiffs and others.

63. PCSD had a duty to hire employees, including Brott, Duncan, McDermid, Fuhrman, Bannon, Newman and Frankforter, who were competent to perform their tasks and who would perform their jobs without engaging in conduct that would violate the civil rights of Named Plaintiffs and Class Members.

64. PCSD had a duty to supervise its staff, including the superintendent, principal, athletic director, head wrestling coach, yearbook advisor, and student employees, so that the staff would assure the privacy and other civil rights of Named Plaintiffs and Class Members.

65. PCSD breached each of its duties of care toward the Student Plaintiffs, children of the Parent Plaintiffs, and class members in the following ways:

65.1 By failing to provide safe, secure locker room facilities. Among other things, PCSD breached its duty to the Student Plaintiffs, children of the Parent Plaintiffs, and class members by providing locker rooms with a false ceiling through which the girls' locker rooms could be accessed from the boys' locker room.

65.2 By failing to operate and maintain the locker room facilities so as to make them safe and secure. Among other things, PCSD breached its duty to the Student Plaintiffs, children of the Parent Plaintiffs, and class members by providing students with keys and unsupervised access to all locker rooms, leaving the locker rooms unsecured during school hours, and allowing exterior doors or windows to remain propped open or unlocked.

65.3 By failing to supervise employees Frankforter and Newman adequately. Rather, Frankforter and Newman, as employees of PCSD, were given unsupervised access to the locker rooms before, during, and after their use.

65.4 By failing to warn the Student Plaintiffs and the Parent Plaintiffs and class members, particularly those from different school districts, once rumors of the videotaping became widespread, even if they had not yet been verified.

65.5 By failing to investigate the many reports, rumors, and obvious physical signs of the videotaping operation; had PCSD done so, the operation would have been discovered quickly.

65.6 By failing to terminate the videotaping operation immediately once it had actual knowledge of it.

65.7 By continuing to bid for tournaments and invite girls to visit the PCHS locker rooms months after PCSD knew or should have known girls were being videotaped and viewed in the locker rooms in the nude and semi nude.

65.8 By failing to inform, even today, all of the girls who visited the PCHS locker rooms during the relevant time periods and their schools of the likelihood that the girls were victims of the videotaping and that the girls had been present during a time when Frankforter, Newman, or Thomas have acknowledged to have videotaped.

65.9 By repeatedly failing to report to law enforcement or administration the reports and rumors about the videotaping or communications it overheard, intercepted, or participated in about the videotapes.

65.10 By the repeated failures of other PCHS staff to report to law enforcement or administration the reports and rumors about the videotaping or communications they overheard, intercepted, or participated in about the videotapes.

D. Negligence Claims Against Brott, Duncan, and McDermid,

66. All previous allegations are included in this section as though fully set forth here.

67. Defendant Brott, Defendant Duncan, and Defendant McDermid had a duty of care toward the Student Plaintiffs, children of the Parent Plaintiffs, and class members and breached that duty in the following ways:

67.1 By failing to provide safe, secure locker room facilities. Among other things, Defendants breached their duty to the Student Plaintiffs, children of the Parent Plaintiffs, and class members by providing locker rooms with a false ceiling through which the girls' locker rooms could be accessed from the boys' locker room.

67.2 By failing to operate and maintain the locker room facilities so as to make them safe and secure. Among other things, defendants breached their duty to the Student Plaintiffs, children of the Parent Plaintiffs, and class members by providing students with keys and unsupervised access to all locker rooms, leaving the locker rooms unsecured during school hours, and allowing exterior doors to remain propped open or unlocked.

67.3 By failing to supervise employees Frankforter and Newman adequately. Rather, Frankforter and Newman, as employees of PCSD, were given unsupervised access to the locker rooms before, during, and after their use.

67.4 By failing to warn the Student Plaintiffs, the Parent Plaintiffs and class members, particularly those from different school districts, once rumors of the videotaping became widespread, even if they had not yet been verified.

67.5 By failing to investigate the many reports, rumors, and obvious physical signs of the videotaping operation; had Defendants done so, the operation would have been discovered quickly.

67.6 By failing to terminate the videotaping operation immediately once it had actual knowledge of it.

67.7 By continuing to bid for tournaments and invite girls to visit the PCHS locker rooms months after they knew or should have known girls were being videotaped and viewed in the locker rooms in the nude and semi nude.

67.8 By failing to inform, even today, all of the girls who visited the PCHS locker rooms during the relevant time periods and their schools of the likelihood

that the girls were victims of the videotaping and that the girls had been present during a time when Frankforter, Newman or Thomas have acknowledged to have videotaped.

67.9 By repeatedly failing to report to law enforcement or administration the reports and rumors about the videotaping or communications they overheard, intercepted, or participated in about the videotapes.

67.10 By the repeated failures of other PCHS staff to report to law enforcement or administration the reports and rumors about the videotaping or communications they overheard, intercepted, or participated in about the videotapes.

E. Negligence Claims Defendant Fuhrman

68. All previous allegations are included in this section as though fully set forth here.

69. Defendant Fuhrman had a duty of care toward the Student Plaintiffs, Children of the Parent Plaintiffs, and class members and breached that duty in the following ways:

69.1 By failing to operate and maintain the locker room facilities so as to make them safe and secure. Among other things, he breached his duty to the Student Plaintiffs by providing students with keys and unsupervised access to all locker rooms, leaving the locker rooms unsecured during school hours, and allowing exterior doors to remain propped open or unlocked.

69.2 By failing to supervise employees Frankforter and Newman adequately. Rather, Frankforter and Newman, as employees of the School District, were given unsupervised access to the locker rooms before, during, and after their use.

69.3 By failing to warn the Student Plaintiffs and the Parent Plaintiffs, particularly those from different school districts, once rumors of the videotaping became widespread, even if they had not yet been verified.

69.4 By failing to investigate the many reports, rumors, and obvious physical signs of the videotaping operation; had he done so, the operation would have been discovered quickly.

69.5 By failing to terminate the videotaping operation immediately once he had actual knowledge of it.

69.6 By failing to report to law enforcement or administration the reports and rumors about the videotaping or communications he overheard, intercepted, or participated in about the videotapes.

F. Negligence Claims Against Bannon

70. All previous allegations are included in this section as though fully set forth here.

71. Defendant Bannon had a duty of care toward the Student Plaintiffs and breached that duty in the following ways:

71.1 By failing to warn the Student Plaintiffs and the Parent Plaintiffs, particularly those from different school districts, once rumors of the videotaping became widespread, even if they had not yet been verified.

71.2 By failing to question Eric Woodward or anyone about Woodward's Yearbook comment in the 2001-2002 yearbook; had he done so, Woodward would have revealed the existence of the locker room videotape and the operation would have been discovered quickly.

71.3 By failing to investigate the many reports and rumors regarding the videotaping operation; had he done so, the operation would have been discovered quickly.

71.4 By failing to report to law enforcement or administration the reports and rumors about the videotaping or communications he overheard, intercepted or participated in about the videotapes.

71.5 By failing to terminate the videotaping operation immediately once he had actual knowledge of it.

G. Negligence Claims of the Parent Plaintiffs Against All Defendants

72. All previous allegations are included in this section as though fully set forth here.

73. Defendants had a duty of care to the Parent Plaintiffs to avoid conduct whose reasonably foreseeable result would be the serious or severe emotional distress of the Parent Plaintiffs. Defendants breached this duty by failing to provide a safe school environment, failing to supervise its employees, failing to warn students and parents or investigate further once they had actual or constructive notice of the videotaping operation, inviting the Parent Plaintiffs' children to the PCHS locker rooms when Defendants knew or should have known about the risk of injury to the children, and failing to stop the operation once Defendants had actual notice of it.

H. Respondeat Superior

74. PCSD is vicariously liable for the actions of each its employees in breaching the duties owed by the School District to the plaintiffs as described above. Upon information and belief, those employees include: Rucker, Fenner, Brott, Duncan, Fuhrman, and Pembleton, each of whom was told about the videotaping operation and

either failed to take any steps or failed to take adequate steps to stop it; Cease, who observed the obvious physical evidence of the videotaping operation from its inception; the teachers and staff in the athletic department, including Fenner and McDermid, who gave the students free and unsupervised access to the locker rooms; and all other teachers with notice of the videotaping operation who failed to either report or act upon such notice.

I. Punitive Damages

75. Defendants' knowledge and disregard of facts creating a high probability of injury to the plaintiffs and conscious disregard of or indifference to that high probability of injury, as alleged above, amounts to actual malice under MT ST 27-1-221(2), entitling the plaintiffs to punitive damages under MT ST 27-1-220.

V. HARM SUFFERED BY PLAINTIFFS

76. As a proximate result of Defendants' breaches of their duties and constitutional violations, the Student Plaintiffs, children of the Parent Plaintiffs, and class members have suffered and continue to suffer a violation of their right of privacy and serious emotional distress. That emotional distress is exacerbated by the fact that they still have not been allowed to see the videotapes and therefore do not know whether or in what manner they were videotaped. The further uncertainty as to who viewed the tapes, the circumstances of the viewing, whether and to whom the tapes were sold or distributed, whether the material was uploaded to the Internet, and whether all copies of the tapes and footage shot have been accounted for adds to the emotional distress.

77. As a proximate result of Defendants' breaches of their duties and constitutional violations, the Parent Plaintiffs have suffered and continue to suffer serious emotional distress. That emotional distress is exacerbated by the fact that neither they nor

their daughters have been allowed to see the videotapes and therefore do not know whether or in what manner their daughters were videotaped. The further uncertainty as to who viewed the tapes, the circumstances of the viewing, whether and to whom the tapes were sold or distributed, whether the material was uploaded to the Internet, and whether all copies of the tapes and footage shot have been accounted for adds to the emotional distress.

VI. CLASS ALLEGATIONS

78. This case satisfies the prerequisites for a class action under FRCP 23(a) with respect to both plaintiff classes for the following reasons:

78.1 With more than 739 members in each class, joinder of all members is impractical;

78.2 The factual and legal questions with regard to Defendants' duties and breaches thereof are common to all class members;

78.3 With the exception of the actual amount of their damages, an issue that can be addressed in separate proceedings, the claims of the representative plaintiffs are identical to those of the class members; and

78.4 The representative plaintiffs and their counsel will fairly and adequately protect the interests of their class members. Plaintiffs' counsel are experienced in class-action litigation; further, they currently represent plaintiffs in related litigation and therefore are well informed of the facts, circumstances, and legal issues present in this case.

78.5 This case satisfies the requirements for maintenance as a class action under FRCP 23(b)(3) with respect to both plaintiff classes, as the matters of fact and law common to all class members predominate over those affecting individual members.

VII. RELIEF REQUESTED

The Plaintiffs request the following relief:

- A. For an injunction preventing Defendants from continuing to seek the destruction of evidence.
- B. For compensatory damages for their suffering in an amount to be determined at trial;
- C. For punitive damages for the reckless and malicious disregard of the constitutional rights of the Named Plaintiffs and Class Members, for their malicious violations of their duty of care toward Named Plaintiffs and Class Members, and for their violation of Title IX.
- D. For a class to be certified pursuant to FRCP 23.
- E. For attorneys' fees pursuant to 42 U.S.C. § 1988.
- F. For such other relief at law or in equity as may be recoverable under the facts as proved at trial.

DATED this 27th day of April, 2006.

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DEMAND FOR JURY TRIAL

Now Come Plaintiffs and demand a trial by jury for all matters so triable.

DATED this 27th day of April, 2006.

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

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DATED this 27th day of April, 2006.

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